



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

LOCAL GOVERNMENT IN BELGIUM¹

LÉON DUPRIEZ²

In Belgium there are two units of local government, the province and the commune.

Belgium is divided into nine provinces, the boundaries of which were drawn somewhat arbitrarily by the government of the French Revolution after the conquest of the country in 1795. All the provinces except one are about equal in territorial extent, but they differ considerably in respect to population, which varies from 250,000 to 1,200,000. Thus the province of Luxemburg, whose area exceeds that of any of the others by about a third, has the smallest population; it has neither industrial centers nor any important city (its largest city has a bare 10,000 inhabitants), and it is in large part covered with forests. The differences in population have increased during the last fifty years, as much from the great development of industry in certain provinces as from the growth of certain great urban centers like those of Brussels and Antwerp.

There are 2630 communes in Belgium; their boundaries were not established systematically by a single act, nor by a series of acts of the legislative authority. Almost all grew up in the course of centuries, and their boundaries have come into existence only in accordance with very ancient traditions. There are great differences among the communes, not only in respect to their territorial extent (which varies from some hundreds to some tens of thousands of acres), but also in respect to their population. Some little villages have scarcely a hundred inhabitants, whereas Antwerp had more than 300,000 in 1914. Some communes take

¹ Translated by Robert D. Leigh, assistant professor of politics, Reed College, Portland, Oregon.

² Professor of comparative constitutional government, University of Louvain; assistant councilor to the prime minister of Belgium.

the name of cities, others are called villages; but that does not make the least difference so far as the law is concerned, nor in respect to the administrative régime to which they are subject. Today there is no longer the shadow of a privilege, special right, or peculiar obligation which attaches to the title of city. Many communes have the title of city by force of tradition, because that title was given to them formerly when cities were invested with peculiar privileges; others have assumed that title recently, because their population has increased so much and become so congested that they no longer have the appearance of a village at all.

The organization of local government in Belgium is based on principles very different, one might even say quite opposed, to those that control local government in America.

The first principle is that of the complete and absolute uniformity of institutions and legal regulations. The provincial organization was regulated by the law of April 30, 1836; the communal organization by the law of March 30, 1836. These two laws have undergone numerous modifications since that time, but all the new acts of the legislative authority have respected this principle of uniformity. Thus all the provinces are equally subject to the same system; one probably would not find in the entire body of the Belgian laws a single provision which would apply only to one particular province, or even one that would not apply equally to all the provinces. The case is the same, in principle, with respect to the communes: the same institutions exist, the same legal regulations apply to the largest cities and to the smallest villages; there is no city that enjoys a special charter; there is not even one special system of local government for the cities and another for the rural communes.

One exception to this rule of uniformity can be pointed out, one of but little importance: the communes which have less than 5000 inhabitants are subject to the supervision of an official of the central government, whereas the largest communes are subject only to the supervision of the provincial authorities. But although no article of the constitution forbids, the Belgian

parliament has never made a law imposing upon one particular commune a special rule for the organization of its local administration. At most one can cite some recent laws which have created a fifth alderman (*échevin*) in certain large cities; the legislators of 1836, who did not foresee the considerable growth of the great cities, limited the number of aldermen to four and this number became obviously insufficient in four or five cities. The Belgian people are so imbued with this idea of uniformity in legislation—which they consider a result of the principle of equality—that no one even thinks of the possibility of particular laws or special charters. Indeed, the prejudice is so strongly rooted that statesmen and administrators up to the present time have encountered an irresistible opposition when they ask that the great cities and the industrial centers be granted a form of local government slightly different from that of 1836, which is especially suited to the rural communes.

In America local authorities are kept within the bounds of their powers and in conformity to the laws, on the one hand by the legislature, which determines in minute detail all their powers, functions and duties, and on the other hand by the courts of justice, which can annul their acts and overcome their resistance; but they are independent of the governor and of the other officers of the state. In Belgium, on the contrary, the legislature is satisfied with laying down in the law only general principles and fundamental regulations; the courts of justice have neither the power of annulment in respect to legislative acts nor the power of injunction, and they are even strictly forbidden to adjudge administrative acts. The entire control of the acts of local authorities is in the hands of a central executive power, following the principle of hierarchy, on which the entire administrative organization of European states is based. Provincial authorities administer provincial affairs, but under the supervision and control of the central government; the communal authorities administer communal affairs under the supervision and control, first of the provincial authorities and secondly of the central government. This means that certain especially important or dangerous acts of the local authority are valid only when they

have been approved by the superior authority; all other acts for which the law has not specially required such approval are valid without it; but the higher authority may annul, not modify, these latter acts, if they violate a legal regulation, if they go beyond the powers of the authority belonging to them, or if they are injurious to the general interest of the state.

The lines of division between the powers and functions of the central government and the rights and functions of the local authorities are not so clearly drawn that each can act quite separately in its own sphere without finding itself in frequent contact with the other. On the contrary, in Belgium the central government and the local authorities are, of necessity, constantly impinging on each other, in the first place because of the hierarchic control just described, in the second place because the law has also set up local authorities as subordinate agents of the central government, has called on them to coöperate in the execution of the laws and administration of general affairs, and has delegated to them powers and functions in the administrative services of the nation. Belgian provincial and communal authorities have thus a double duty: on the one hand they administer the local affairs of the province and of the commune under the supervision and under a certain legally limited control of the central government; and on the other hand they take part in administration of the general affairs of the nation under the absolute orders and control of the central government. And in practice it is sometimes very difficult to distinguish in which capacity they are acting. Naturally, when a local authority acts as an agent of the central government, the latter has power not only to give or refuse its approval to certain acts determined by the law, or to annul acts that are illegal or contrary to the general interest, but it can give orders to which the local authority owes outright obedience; it can not only annul every such act which displeases it, without even giving a reason for doing so, but it can amend it, modify it, or itself promulgate a decision contrary or altogether different.

However, it can be said that the local authorities in Belgium enjoy a very large degree of autonomy. In this respect Belgium

cannot at all be compared with France; it is unquestionably the most decentralized country of all on the European continent. The mere explanation of the legal organization of local government might give an incorrect impression. The traditions of local self-government are so strong in Belgium, public opinion there is so jealous of "communal liberties," that the central government, far from giving a broad interpretation to the powers of supervision and control which the law allows it, has not always dared even to make use of its incontestable rights, or has used them only with extreme caution. On the contrary, it has left the local authorities the greatest liberty in the exercise of their functions, has even allowed them to extend these functions to the farthest limits that the text of the laws permits, perhaps in some cases even to pass beyond those limits. Custom and tradition, even more than law, guarantee the authority and the vitality of the local authorities.

PROVINCIAL ORGANIZATION

In the province there are three distinct authorities, the provincial council, the permanent deputation, and the governor. The provincial council is the representative assembly of the inhabitants of the province; the number of councilors varies from 44 to 93 according to the province. They are elected for eight years, formerly by plural, manhood suffrage, each person possessing, according to certain conditions determined by law, one, two or three votes. This system was abolished by the last parliament, and was replaced by manhood suffrage, equal for all. The vote is taken by *scrutin de liste* (block vote); if a number of candidates equal to the number of councilors to be chosen has not obtained an absolute majority on the first ballot, they proceed to a second election, eight days afterwards, for the seats remaining to be filled. This system will also soon be abolished and there will be substituted for it a system of proportional representation.

The permanent deputation is composed, according to law, of six members elected for eight years by the provincial council and necessarily chosen from its own members. It is presided over by

the governor, who is also a member *ex officio* and possesses all the powers of discussion and decision. This makes it possible to say that in reality it is composed of seven members: the governor and the six elected deputies. The governor is the representative of the central government; he is chosen and may be freely recalled, without reason or pretext, by the Crown. The governors of the provinces are usually chosen from the politicians rather than from the professional administrators; they resign automatically if the central government passes from one party to another.

The provincial council holds only one regular session each year, the duration of which is limited usually to two weeks and cannot in any case exceed four weeks. Occasionally there are special sessions, but these last only a day or two at most. The provincial council, if we except some special and inconsiderable powers, has, in effect, no other task than that of provincial legislation; it has to vote the taxes and the appropriations, the annual budget, and the loans, to decide upon the construction of the provincial establishment, to regulate provincial interests. The law neither defines nor enumerates what the provincial interests are, but, as a matter of fact, they are not very numerous, nor of great importance. The provincial councils have very little to occupy their attention, aside from the building and maintenance of rural roads; the improvement of the breeds of horses and cattle; the building and organization of certain charitable institutions, for example those for the deaf mutes, the blind, the crippled, the tuberculous; the creation and administration of certain special schools, notably professional schools. This explains how the provincial councils can dispatch all the business they have to take care of, in so short a time, and shows how unimportant is the rôle they play in the political life of Belgium.

The permanent deputation, on the contrary, meets at least once a week, often several times a week in the most populous provinces. Its members receive a salary and allowances which permit them to live suitably; for it must be realized that they cannot practice any other profession, but must devote practically all their time to the exercise of their functions. These functions are, in fact, far from being limited to the administration of pro-

vincial affairs. The law has intrusted to them, first, the very important and absorbing task of supervising and controlling the activity of the communal authorities; they have to give or refuse their approval to numerous acts of the communal authorities and to inspect them with a view to preventing violations of the laws or acts injurious to general interest.

Furthermore, numerous provisions of special statutes confer upon them very diverse powers in the administration of the affairs of state; there is no type of administrative service, even the technical services, which does not have frequent recourse to the collaboration or advice of the permanent deputation. The services which the permanent deputies render to the state are so important that the central government has assumed the complete payment of their salaries; thus these provincial officers, chosen by the provincial council, whom the central government can neither dismiss nor suspend, are paid exclusively by the treasury of the state.

The law gives to the governor, alone, the duty of seeing to the execution of the decisions of the provincial council, as well as to that of the laws and royal ordinances within the province. Nevertheless the permanent deputation may be described as a true administrative council; for the governor is, for practically all his acts, obliged at least to consider their advice, or even to assure himself of their coöperation. There are many acts, considered a part of the executive function, which must be decided by the deputation and which the governor afterwards must put into execution. Thus the permanent deputation alone can dispose of the landed property of the province, and order that a warrant of payment be given; the governor has no choice but to sign the warrant in accordance with the order of the deputation. But all the powers and all the functions belong only to the deputation as a whole; each member by himself, save, of course, the governor, cannot perform the smallest act. Even for the simplest deliberation and study of data there does not exist among the deputies a division of functions analogous to that which exists among ministers in the government, nor even like that which, it will be seen, appears among the aldermen in the communal administration.

COMMUNAL ORGANIZATION

In the commune there are also three distinct authorities: the communal council, the aldermanic college, and the burgomaster. The communal council is the body which represents all the inhabitants of the commune. It is composed of seven members only, in the little communes which have less than 1000 inhabitants; the number of communal councilors increases with the population, but never exceeds 39 in the largest cities. They are elected for six years—one-half every three years—formerly by plural male suffrage, with a maximum of four votes to an elector, but this system has just been abolished by act of parliament, and will be replaced by universal suffrage, pure and simple. The vote is taken by *scrutin de liste*, with a system of qualified proportional representation. That is to say, all the candidates who have obtained an absolute majority of votes are declared elected. If after this there remain seats to fill, they do not proceed to a second balloting as for the provincial council, but the remaining seats are apportioned among the different lists of candidates proportionately to the number of votes which they have received. Here also proportional representation without restriction will probably soon be applied.

The aldermanic college (*collège des échevins*) is composed of the burgomaster and of two to five aldermen; there are at least two aldermen in the smallest villages, there are not more than five in the largest cities. The burgomaster is appointed by the Crown but he must be chosen from the members of the communal council. So he seems much less the delegate of the central government than the representative of the inhabitants of the commune who have first elected him. In fact very often the government does not in reality have the function of choosing the burgomaster; almost always there is in the communal council a man whose nomination forces itself upon the government by reason of services which he has rendered, of his popularity in the commune, of his prestige and authority among his colleagues of the communal council. When there is no such man already designated for the function of burgomaster, the government always takes great

care to choose the councilor who will enjoy the confidence of the people and the council. It has even acquired the habit of consulting officially the communal councilors, or requesting them to present to it a candidate, and, except for very special reasons, it hastens to name him.

Aldermen are elected by the communal council from its members. Their mandate, like that of the burgomaster, has the same duration as that of the communal council; namely, for six years. On the subject of these functions of local government the Belgians have ideas and traditions very different from those of the Americans. They do not believe at all in the advantage of frequent changes; thus the burgomaster, who, like the communal council, has to be reelected, is always renominated unless he has committed grave faults in his administration, or unless the majority of the new council is opposed to his renomination. It is not uncommon to see a commune directed by the same burgomaster for twenty or thirty years.

The communal council does not have sessions regularly fixed by law. It assembles whenever the functions assigned to it require a meeting. Naturally the number of sessions varies considerably according to the importance of the commune; they are frequent in the large cities, while four or five sessions a year are sufficient in the small villages. The communal council can sit only when it is convoked by the aldermanic college; but the latter is obliged to convoke it whenever so requested by at least one-third of the communal councilors.

In the political and administrative life of Belgium the communal council enjoys a part much more active and important than the provincial council. To be sure, their principal duty is the regulation of all which is of communal interest, just as the provincial council must regulate everything of provincial interest, and the law has not taken any greater care to define and enumerate the communal interests than it has provincial interests. But as a matter of fact the communal interests far surpass the provincial interests in number and importance. The communal sphere of interests includes the building, maintenance and administration of streets, public squares, boulevards and public highways, like-

wise public gardens and parks; everything connected with public health; the maintenance and administration of primary schools; all that has to do with public benefaction, asylums, hospitals, poor relief; the cemeteries; the development and administration of the properties of the commune—forests, lands and buildings; the administration of markets, fairs and slaughter houses; the police and the maintenance of good order; and the furnishing to the inhabitants of certain commodities which involve a monopoly—drinking water, gas, electricity, tramways.

In regard to these utilities the communal councils can either grant the monopoly of operation to private companies or operate them themselves directly as a commune. These developments in administration were established in Belgium a long time before the modern socialistic tendencies began to spread. Thus, nearly everywhere the distribution of water has from the start been developed as a part of public administration; only two or three cities can be cited where it is carried on by private companies. Brussels has for a long time had communal operation of gas, and its example has been imitated by numerous communes whose administrations were not at all socialistic. Even the distribution of electricity has, in a certain number of cities, been established and developed directly by the communal administration. The tramways, on the other hand, are generally granted to private companies; Liège is the only city which up to the present has communal tramways.

The communal council, to begin with, exercises, in matters of communal interest, all the powers which appertain to parliament in matters of general interest. It passes all the regulations relative to the communal business and establishment, decides upon the creation and organization of the communal administrative services, votes the taxes and appropriations, the annual budget, and the loans and public works to be paid for out of the communal treasury. But it also has to discuss and decide upon a multitude of purely administrative matters, which are usually considered as, by their nature, coming within the province of the executive power. It must decide on all alienations, exchanges, or purchases of real estate in the name of the commune, on the

acceptance of gifts and bequests made to the commune, on the changes in the possession of communal property, on the alienation of credits, obligations and legal actions pertaining to the commune, and on the choice, suspension and dismissal of all the official agents and employees of the commune. The council can, however, delegate the nomination of employees and subordinate agents to the aldermanic college.

If we leave out of account these powers thus reserved by law to the communal council, the executive functions in the commune belong to the college of aldermen. They belong to the college entirely as a body; each of its members, even the burgomaster, has no powers by himself. To be sure, in the large cities, in order to expedite business, the direction and control of different communal services are apportioned among the burgomaster and the different aldermen. But each one individually can only direct the deliberations of officials, control the execution given by the agents to the decisions of the council and of the college, prepare and propose solutions, present reports and plans; all decisions come from the aldermanic college itself. This is the characteristic that most distinguishes the Belgian from the French system. In France all the powers and functions of administrative regulation, in the commune, belong to the mayor alone; he does not have to deliberate with the aldermen every time on all the decisions he makes; he can simply delegate functions to the adjoints who assist him, to whom he can always give orders and from whom he can always withdraw the power delegated.

Nothing has contributed more to safeguarding the autonomy of the Belgian communes against the encroachments of the central government than this collegiate organization of executive power in the commune. One man alone has not always the necessary energy and force to resist the pressure of a superior authority; not only will he resist better when he feels himself encouraged and supported by the counsels and demands of his colleagues, but often a small group composed of very ordinary men—anyone of whom left to his own strength would not have the audacity to resist—maintain an energetic and courageous opposition, because each excites and inspires the others and each feels himself thereby the stronger and more audacious.

In principle, the burgomaster has no special power. Nevertheless he is, in his own right, president of the communal council and of the college of aldermen, and this gives him considerable means of directing and of guiding their activity. In fact, beyond that, he is the man who possesses the most personal influence in both assemblies, as well as among the people of the commune. In the small and medium-sized communes, it is not uncommon to find a burgomaster who leads as he listens to the communal council, as well as the aldermanic college. The aldermen necessarily assume more authority and importance in the large communes, where the necessities of administration have brought a distribution of functions between them, and where each one of them has thus received the direction and control of an administrative service.

But there is one domain which the Belgian law has taken away entirely from the competence of the aldermanic college, where it has conferred all the powers on the burgomaster; this is the police. In theory, the burgomaster alone is charged with securing the execution within the commune of the general laws and general provincial regulations; however, this task also can be delegated to the college of aldermen, and these exceptions to the general principle are numerous. But in the matter of police there are no exceptions. The burgomaster alone is charged with the execution of all the police laws and regulations. The communal council itself can, of course, make police regulations; but it cannot control the execution given by the burgomaster to its regulations, it cannot even express its opinion on the measures taken by the burgomaster to assure their execution. In the matter of police, then, the burgomaster has full powers; he acts alone without having to consult his aldermen; he is subject only to the control of the superior authority, provincial or central. Not only does he direct and command all the officers and agents of the communal police, but he can in case of necessity requisition the assistance of the *gendarmérie* (state police) and of the army. He can even make police regulations by himself, in case of necessity, in place of the communal council.

In spite of the uniformity of legislation it is evident that the practical organization of the communal administrative services

is very different in the large cities from that in the villages. The law, which always limits itself to laying down very general rules, which gives authorization and confers powers on the communal authorities more often than it imposes on them orders and obligations, is flexible enough to lend itself to all local needs.

Such services as the furnishing of water and light, very highly developed in the large cities, do not even exist in the majority of small communes. Such others as police or health which in the large cities require hundreds of officers and agents have, at most, one special agent in the villages. The law authorizes the communal councils to vote salaries and expense allowances to the burgomaster and to the aldermen; but in hardly any of the small or medium-sized communes do the burgomaster and aldermen receive salaries, because their functions absorb so little attention that they can continue to devote to their private profession all the time necessary, and because they consider themselves paid sufficiently by the honor and prestige which their public positions give them. But in the large cities the burgomaster and the aldermen must devote all or nearly all their active time to their administrative departments, and in consequence they are paid. In Brussels the aldermen receive a salary of 8000 francs, the burgomaster has a salary of 20,000 francs. The reason for this great difference is, in the first place, that it is considered the aldermen can still find time to carry on a lucrative profession in spite of the work which they have to put in each day in communal administration, while the burgomaster must devote all his time and energy to his public duties; in the second place, there is a considerable expense of entertainment which falls upon the burgomaster of the capital of the kingdom.

WOMAN SUFFRAGE

Up to the present time women have been neither voters nor eligible to membership in the provincial and communal councils. Nevertheless, thirty years ago the government decided that no point of law was opposed to naming women as members of the committees charged with the administration of hospitals and

asylums, and the distribution of relief to the indigent,—called “commissions of asylums” or “bureaus of charity,” elected by the communal council and controlled by it. The choosing of women for these functions has, however, been very uncommon up to the present.

The principle that only men vote underwent a first exception in Belgium by the law of May 15, 1910, which accorded to women the same rights of suffrage as to men for the elections to the councils of *prud'hommes*. The councils of *prud'hommes* are special tribunals, charged with deciding contests between employers and workmen or mechanics. Each one of these tribunals is composed of an equal number of employers and employees, all elected, one-half by the employers and one-half by the employees of the same industry or group of industries. It is presided over by a magistrate named for life by the government as justice of the peace, for whom this presidency is only a very secondary part of his functions.

The question of revision of the suffrage has been prominent during the present reconstruction period in Belgium. Plural voting has been definitely abandoned and no more elections, central or local, will be carried on according to that system.

In April, 1919, the chambers adopted a law, which, passing outside the formal provisions of the constitution, decided that the next parliament, called to revise the constitution, should be elected by the universal suffrage of men twenty years of age and over, and that in addition the widows and mothers of the soldiers killed in the war, as well as some other women, were to be electors. The number of women enjoying the right to vote under these provisions is small; but the old dogma of the vote as the exclusive privilege of men is in this way weakened.

In the new parliament elected last November under these provisions, the chamber of representatives, on March 10, passed a bill (115 to 22, 5 absent) establishing woman suffrage in municipal elections on the same lines as manhood suffrage. On April 14 the bill passed the senate (60 to 33, 2 absent). Since an amendment to the constitution is not necessary for this change, woman suffrage is, by this bill, extended to all the communes.

The question of the extension of the parliamentary suffrage to women has caused more difficulty. The Liberal party opposed the municipal suffrage bill, and is in strong opposition to parliamentary suffrage. The Socialists are inclined to await the experience with the votes of women in communal elections before introducing woman suffrage in all elections. The present coalition cabinet has recently proposed parliamentary suffrage as a bill requiring a two-thirds majority, rather than a constitutional amendment. An interesting feature of this struggle over woman suffrage is that in such war-stricken countries as Belgium the women undoubtedly outnumber the men and might form immediately the majority of votes in elections.

In the election last November, the abolition of plural voting, combined, probably, with other causes, increased the Socialist representation in both chambers, and deprived the Catholic party of its long established majority in both chambers. The Liberal party now forms barely a one-third minority in the senate and less than that in the house of representatives. Further changes or extensions of the suffrage are, therefore, looked upon with intense interest by the three parties, to forecast their probable effect on party strength.